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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/780,192	02/17/2004	Guy Brochu	2634-8A	9912
7590		07/10/2007		
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CANADA				
			EXAMINER	
			NGUYEN, CHI Q	
			ART UNIT	PAPER NUMBER
			3635	
			MAIL DATE	DELIVERY MODE
			07/10/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/780,192

Applicant(s)

BROCHU ET AL.

Examiner

Chi Q. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 04 May 2007.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, and 8-11 is/are rejected.
- 7) ☒ Claim(s) 5-7 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 October 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

### **DETAILED ACTION**

This Office action is in response to the applicant's amendment filed on 5/4/2007.

#### ***Status Of Claims***

Claims 1-11 are pending and have been examined.

#### ***Drawings***

The replacing sheets for the drawings filed on 10/17/2006 have been acknowledged and entered.

#### ***Specification***

The replacement for specification has been acknowledged and entered.

#### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, and 8-11 are rejected under 35 U.S.C. 102(b) as being anticipated by US Patent No. 4,226,056 to Hallam.

Claim 1:

Hallam discloses a fascia system comprising a first member 10 and a second member 20, said first member having an upper section designed for securement to an upper surface of a roof member, a drip edge 17 formed at an extremity of said upper section, a transition section 18 extending inwardly and downwardly from said first

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section, a lower section 14 extending substantially vertical from said transition section, said lower 14 having a first cooperative locking means 15 associated therewith, said second member 20 comprising a fascia member (see col. 2, line 19) having second cooperating locking means 23 at an upper portion, said first and second cooperative locking means being designed such that said first cooperative locking means engage said second cooperative locking means (see Fig. 1, col. 2, lines 26-27) to thereby hold said fascia member in position, said second member 20 having a generally planar central portion (no labeled but wherein 20 points to), and an inwardly extending flange 27 arrangement at a bottom end of said generally planar portion to adjoining soffit 49 (Col. 3, line 17).

Claim 2:

Wherein said upper section of the first member 20 having a first portion F and a second portion angled downwardly with respect to the first portion (Fig. 1).

Claim 3:

Wherein said first member and second member are formed of a metallic sheet material and the metallic material (see col. 2, line 41).

Claim 8:

Wherein further including a tensioning member 31 (see Figs. 1-3) being designed to be secured to a building structure and to contact said inwardly extending flange arrangement 29 of said second member 20.

Claim 9:

Hallam discloses a fascia system comprising a first member 10 and a second member 20, said first member having an upper section designed for securement to an upper surface of a roof member, a drip edge 17 formed at an extremity of said upper section, a transition section 18 extending inwardly and downwardly from said first section, a lower section 14 extending substantially vertical from said transition section, said lower 14 having a first cooperative locking means 15 associated therewith, said second member 20 comprising a fascia member (see col. 2, line 19) having second cooperating locking means 23 at an upper portion; said first and second cooperative locking means being designed such that said first cooperative locking means engage said second cooperative locking means (see Fig. 1, col. 2, lines 26-27) to thereby hold said fascia member in position, said second member 20 having a generally planar central portion (no labeled but wherein 20 points to), and an inwardly extending flange 27 arrangement at a bottom end of said generally planar portion to adjoining soffit 49 (Col. 3, line 17).

Claim 10:

Wherein said first member and second member are formed of a metallic sheet material and the metallic material (see col. 2, line 41).

Claim 11:

Wherein further including a tensioning member 31 (see Figs. 1-3) being designed to be secured to a building structure and to contact said inwardly extending flange arrangement 29 of said second member 20.

***Claim Rejections - 35 USC § 103***

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The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Butzen US Patent No. 4,226,056 to Hallam.

In regard claim 4, Hallam teaches the basic structures as stated except for the sheet material is aluminum. At the time of the invention, it would have been obvious to a person having an ordinary skill in the art to have aluminum for sheet material because aluminum is not corrosive when contact with water. Furthermore, applicant has not disclosed the criticality of this feature.

#### ***Allowable Subject Matter***

Claims 5-7 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-11 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communication from the examiner should be directed to Chi Q. Nguyen whose telephone number is (571) 272-6847. The examiner can normally be reached on Monday-Friday from 7:30 am-4:00 pm.

If attempt to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Richard Chilcot can be reached at (571) 272-6777.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pairedirect.uspto.gov>. Should you

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have questions on access to the Private PAIR system, contact the Electronic Business

Center (EBC) at (866) 217-9197.



CQN

6/26/2007

/J. CHAPMAN/  
PRIMARY EXAMINER  
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